Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

October Term, 1998

CONSTANCE KRAJICEK,
Petitioner

v.

K. M. JUSTIN, JAMES SHEEHY,
DAVID BRECK, ROBERT TEMPLIN

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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UNITED STATES SUPREME COURT
WASHINGTON, D.C.

Rule 14.1.(a):

PRELUDE TO QUESTIONS

Three judges and one person, functioning illegally as a magistrate, are involved in a conspiracy to deprive Petitioner of her constitutional rights. The "magistrate" and two of the judges functioned without jurisdiction. The third judge sued in United States District Court to have part of the Michigan Constitution declared unconstitutional. They have violated Petitioner's rights under the First, Fourth, Fifth, Sixth, Seventh, Eighth, Fourteenth Amendments to the United States Constitution, Miranda Law and 42 USC §1983, §1985 (2) and (3) and §1986

Questions Presented for Review:

1. Do state district court judges have **jurisdiction** to hear cases when the cases involve monetary amounts greater than state law permits?

2. When a person, too old to be appointed to the position of "judge" by the Michigan state constitution, accepts appointment as a judge, does he have **jurisdiction** to so function?

3. When a judge sues in the United States District Court to have part of the Michigan Constitution declared unconstitutional, does he have **jurisdiction** as a judge, in circuit court?

4. Does someone have **jurisdiction** to function as a magistrate because he has the same last name as a legitimate magistrate but has no

personal bond as state law requires?

5. Do judges forfeit or surrender **jurisdiction** when they knowingly and willfully violate the constitution and laws of the United States?

6. Has the United States Congress ever passed any legislation granting **immunity** to judges?

7. Do judges retain **"immunity"** from tort liability under Title 42 §1983,when they willfully and intentionally violate defendant's constitutional rights?

8. Does a judge have **"immunity"** if he sues to have part of a constitution declared "unconstitutional"?

9. Do judges of a state circuit court retain **"immunity"** when, according to the Michigan Constitution, they are functioning without any **jurisdiction**?

10. Does a person have **"immunity"** when without **jurisdiction**, he functions as a magistrate?

11 Can a judge, suing to have part of a constition declared "unconstitutional", be trusted to protect the constitutional rights of a litigant?

12. Do judges have the right to "immunity" when they function as follows: **"I can do anything I wish to you and you cannot touch me"?**

Rule 14.1.(b)

List of All Parties

All parties to the proceeding in the court whose judgment is sought to be reviewed are listed on the caption of the case.

Rule 14.1.(c)

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Constance Krajicek prays that the Court issue a writ of certiorari to review the judgments of the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

The decisions of the United States Court of Appeals

for the Sixth Circuit are set forth in the Appendix, the first order, filed March 31, 1999 on Pages **A-1 through A-4** and the second order, filed April 30, 1999, on Page **B-1.**

JURISDICTION

Jurisdiction in this case, as shown in **Rule 10.(a)** of the Supreme Court Rules, exists because a United States Court of Appeals has entered a decision in conflict with the decision of other United States Courts of Appeals on the same important matter and has so far departed from the accepted and usual course of judicial proceedings and sanctioned such a departure by a lower court, in the issuance of its orders of March 31, 1999 and April 30, 1999,. as to call for an exercise of this Court's supervisory power, See Appendix **C-6** partial verbatim quote of Rule 10(a)

CASE LAW, CONSTITUTIONS, STATUTES INVOLVED

Mann v Conlin, 22F3d 100 (1994), n6 and n9 shows lack of immunity. See quote in Appendix **C-14.**

United States Constitution Article III, Section I. Article VI, Paragraph 2; Article VI, Paragraph 3 and First Amendment. See Appendix **C-1**

United States Constitution, Fourth, Fifth, Sixth amd Seventh Amendments. See Appendix **C-2.**

United States Constitution, Eighth and Fourteenth Amendments and 28USC 144 and MCR 2.003. See Appendix **C-3.**

42 USC § 1983 and 42 USC § 1985 (2). See Appendix **C-4.**

42 USC § 1985 (3) and 42 USC §1986. See Appendix **C-5.**

Michigan Constitution Article I § 2 and § 5. See Appendix **C-6**

Michigan Constitution, Article I § 11, § 14, § 16, § 17 and § 20. See Appendix **C-7**

Michigan Constitution, Articles VI §1, § 18, and § 19(3); Article VII § 6 and Article XI § 1. See Appendix **C-8.**

MCLs 600.1821(4), 600.3101, 600.6501 and 6521; See Appendix **C-9.**

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Opinions of the Attorney General for Michigan #86 and 5226 of 1977. See Appendix **C-11**

STATEMENT OF THE CASE

Rule 14

(d.) The United States Court of Appeals for the 6th Circuit in finding against this Petitioner, cited *Mann v Conlin,*22 F3d 100 (1994)n6, n9 Appendix **C-14**; *Mireles v Waco,* 509 U.S. 9 (1991) Appendix **C-22**; *Stump v Sparkman,* 435 U.S.349 (1978)Appendix **C-13**; *Maki v Laakko,* 88 F3d 361 (6th Cir 1996) n 7.5(1) Appendix **C-16**; all of whom, this Petitioner had used in her transmittal to the United States District Court Eastern Division and the

United States Court of Appeals for the 6th Circuit, to prove her position, that judges functioned without jurisdiction and in violation of the United States Constitution and Federal Laws as well as the Michigan Constitution and Michigan state laws, all of which the United States Court of Appeals for the 6th Circuit distorted in its orders, solely for the purpose of exonerating the judges from responsibility for their illegal acts. In addition, the Court used *Ireland v Tunis,* 113 F3d 1435, 1440-43 (6th Cir) Cert.Denied, 118 S Ct. 560 (1997)(Appendix **C-23)** which also bore out this Petitioner's position and *Cox v Consentino,* 876 F2d 1, 2, (1st Cir 1989)(per curiam), which is totally inapplicable. The Court also said that to qualify for §1983 and §1985 (3) claim, one must be a member of a "group", which is not true. The law clearly reads "any person or class of persons". Appendix **C-4 and C-5** Further, the court claimed that this Petitioner had filed a claim under 18 § 241 and §242, which is false. With the memory of the erroneous decision of the 6th Circuit in the Lanier case in mind, Petitioner pointed out to the 6th Circuit Court, that it was within their purview to to cite these malefactors under those laws.

(e) The orders being appealed from were the denial of a final order and denial in the order resulting from a rehearing.

i. The first order being appealed from was filed on March 23, 1999, Appendix **A-1 to A-4.**

ii. The date of the order resulting from the rehearing was filed on April 30, 1999, Appendix **B-1.**

iii. N/A Not a cross petition.

iv. The decision of the United States Court of Appeals for the 6th Circuit which is the basis for this Plea for Certiorari, is a final order which defies common sense, the Law and the United States Constitution and was timely filed, in conformance with the requirements of this United States Supreme Court.

v. N/A Petitioner's complaint does not call into question the constitutionality of any law. What she complains about is courts' cavalier excusing judges from responsibility for their willful disregard for the United States Constitution and the Laws of this Country and they are violating their oaths of office by so doing.

LACK OF JURISDICTION

Three of the men involved totally lacked jurisdiction, as follows:

1. *K.M.Justin* lacked jurisdiction for the reason that a.) he is not a magistrate, Robert Justin is a magistrate, not K. M. Justin; see Appendix **C-12** b.) magistrates require a PERSONAL bond to be posted BEFORE taking the position and he had none, see Appendix **C-12** and *OAG 5226, 1977-1978* of September 15, 1977, see Appendix **C-11** and c.) he was in a definite conflict of interest where this Petitioner is involved, since he had assisted his son for three years in the illegal use of this Petitioner's land.

2. *James P. Sheehy* lacked jurisdiction in the mortgage foreclosure case because he is a judge in the 52/3 District Court where the maximum jurisdiction is **$10,000.00** and the house involved was worth a minimum

of **$256,000.00 plus the lot**; and mortgage foreclosures are in the jurisdiction of a Circuit Court. Michigan Constitution, Article VI, §1,see Appendix **C-8;** MCL 600.151, MCL 600.3101, MCL 600.6501, MCL 600.6521, see Appendix **C-9;** *Adamski v Cole* 494 NW 2d 794, 197 Mich App 124 (1992), see Appendix **C-13**

3. *Robert Templin* lacked jurisdiction; he was retired as overage to seek election or appointment but accepted an unconstitutional and illegal appointment to such position; because of the problems of keeping him awake, as well as his willingness to be "used" by Oakland County, he accepted after being unqualified to seek election or such appointment, according to Michigan Constitution Article VI, §19 (3), see Appendix **C-8** *Hackett v Kress,* 133 NW 2d 221, 1 Mich App 6, and *Ball v Thomas,* 133 NW 2d 218, 1 Mich App 1 (1965) see Appendix **C-13**; *Mann v Conlin,* 22 F 3d 100 (1994) N 6 and N 9; see Appendix **C-14** and *Stump v Sparkman,* 435 U.S. 349 (1978), see Appendix **C-13** and OAG (MI Attorney General Opinion) 86 of April 5, 1977, see Appendix **C-11**

4. *David Breck,* in suing in the United States District Court to have a part of the Michigan Constitution declared unconstitutional, by calling it "a state law" has sought to misinform the court and demonstrated a contempt for both the Michigan Constitution and the United States District Court and violated his oath of office, wherein he swore to uphold the Constitution of the United States and the State of Michigan. He has forfeited his jurisdiction in Circuit

Court. *OAG 86 of 1977-1978*, of April 5, 1977, see Appendix **C-11** (above)

UNITED STATES CONSTITUTION VIOLATIONS

FIRST AMENDMENT Appendix **C-1**

5. *James P. Sheehy* denied Petitioner a.)the right to address the illegal foreclosure of her house, in one case, then b.) denied her the right to question witnesses in another.

6. *Robert Templin* denied Petitioner the right, in her appeal, in the Circuit Court, to address the illegal conviction obtained by the acts of Sheehy in 52/3 District Court.

7. *David Breck* denied Petitioner the right, in her appeal of acts of *James P. Sheehy,* to petition the Michigan Court of Appeals by failing to sign an appealable order then backdating it when he finally signed it, making it impossible for Petitioner to file a timely appeal. Michigan Constitution Article I §5, see Appendix **C-6 and C-7**

FOURTH AMENDMENT Appendix **C-2**

8. There was no PROBABLE CAUSE for the issuance of the warrant (see Conspiracy 42 USC §1985, which follows), which was shown to *Justin, Sheehy and Breck.*

9. *K.M.Justin*, even if he had had jurisdiction, violated Petitioner's rights in issuing a warrant against her, then refused to quash it when issuance was without a sworn statement or ticket issued to validate it and based solely on a hearsay allegation of Oakland County Sheriff deputy who admitted it was from hearsay. It stated only the law under which Petitioner was charged but did not state what

Petitioner was supposed to have done. *People v Heffron,* 19 NW 170, 53 Mich 529. See Appendix **C-14.**

10. *James P. Sheehy,* functioning without jurisdiction violated Petitioner's rights further, when he refused to quash the warrant which had been issued without any sworn statement or ticket to validate it.

11. *David Breck,* functioning with questionable jurisdiction, violated Petitioner's rights when she appealed Sheehy's order to Oakland County Circuit Court, when he refused to quash the same warrant. Michigan Constitution, Article I §11, Appendix **C-7;** Michigan Compiled Laws 764.9d (2); Appendix, **C-10 and C-11.** *People v Quinn,* 356 NW 2d 10, 136 Mich App 145, see Appendix **C-14.**

FIFTH AMENDMENT Appendix **C-2**

12. *James P. Sheehy* violated Petitioner's rights when he a.) denied Petitioner's rights to a fair and impartial trial in the seizure of Petitioner's house; b.) when he sought to go forward with a case before receiving the order resulting from Petitioner's appeal in the Circuit Court in another case **#7** above; c.) denied Petitioner's motion for discovery of Pro- secutor's evidence; d.)deprived Petitioner of due process of law by denying her a jury trial in another case and e.) sought to go forward with a retrial of a case in which Petitioner had obtained a conviction reversal in the Circuit Court and the reversal was upheld in the Michigan Court of Appeals. (When the case was finally transferred to ano- ther judge, he dismissed it WITH PREJUDICE.)

13. *David Breck* denied Petitioner's appeal of the order

of *James P. Sheehy*, thereby accepting the responsibility for the same misdeeds as *James P. Sheehy* **#12.c.** above Michigan Constitution Article I §17,Appendix **C-7** *Brady v Maryland,* 373 U.S.83, 10 L Ed2d 215, 83 S.Ct 1194 (1963), Appendix **C-15**

SIXTH AMENDMENT Appendix **C-2**

14. *K. M. Justin,* (even if he had had jurisdiction) denied Petitioner's rights by his denial of Petitioner's motion to quash the warrant because it merely stated the law under which Petitioner was being charged; *People v Quinn,* Ibid., Appendix **C-14**; for his denial of her motion for a complete statement of the nature and cause of the charge; for his denial of her motion as an indigent, requesting a court appointed attorney.

15. *James P. Sheehy* misused the phrase "the right to a speedy trial" to justify going forward with the theft of this Petitioner's house when she had had only 16 hours notice of the case and denied her motion when she attempted to request an order transferring the case to Circuit Court; then in another case, when he was attempting to retry the case where the conviction had been overturned by the Michigan Court of Appeals, waited 209 days to attempt reprosecution, thereby making a mockery of the phrase "the right to a speedy trial". (When that case was finally assigned to a different judge, the different judge dismissed it "with prejudice", thereby showing that *Sheehy's* willingness to go forward was not legal.) **#12e** above

16. *James P. Sheehy*, in the matter of the theft of Peti-

tioner's house, denied Petitioner the right to a jury trial even though the court's order to appear dictated "You are entitled to have a jury trial."

17. *James P. Sheehy,* refused to order a sheriff's deputy to answer Petitioner's questions, when the deputy displayed a "selective memory" (See Conspiracy). Instead, he said "Go pay the eighty bucks", without ever giving any oral decision in the case.

18. *James P. Sheehy* denied Petitioner's motions for a right to discover Prosecutor's evidence; he denied Petitioner's motion for court appointed attorney; he denied Petitioner's motion for a complete statement of the nature and cause of the charge; when Petitioner refused to plead to a charge, about which she knew nothing except the law under which she was being charged, he sought to enter a plea of guilty until she demanded that it be otherwise.

19. *David Breck*, acting as appellate court judge, denied Petitioner's motion for court appointed attorney, denied Petitioner's motion for complete statement of nature and cause; denied Petitioner's motion for right to discover Prosecutor's evidence; permitted only a plea of "not guilty" by Petitioner.

20. *Robert Templin,* illegally acting as appellate court judge, denied Petitioner's appeal, refused to permit her to address the illegal conviction, saying only, "I'm going along with Judge Sheehy on this."Michigan Constitution Article I §20; Appendix **C-20** *Edmond v Collins,* 8 F3d 290 (5th Cir. 1993) *and U.S. v Brumel Alvarez,* 976 F 2d 1235 (9th Cir 1992); all other *"Brady" case law.* Appendix

C-15 *Young v Duckworth,* 733 F2d 482 (7th Cir 1984) Appendix **C-14**(for all 14-20 above)

SEVENTH AMENDMENT Appendix **C-2**

21. *James P. Sheehy* denied Petitioner the right to a jury trial in the matter of the illegal foreclosure of her house, though the document she had been given stated "You are entitled to a trial by jury"; case involved more than $250,000, when he had no jurisdiction to handle the case.

22. *James P. Sheehy* denied Petitioner the right to a jury trial in the illegally issued ticket (see Conspiracy); but in the notice of trial had stamped on it "Be prepared to pay fines and costs on that date", indicating a predisposition to find Petitioner guilty.

23. *Robert Templin,* by "going along with Judge Sheehy on this", also denied Petitioner the right to a jury trial.Michigan Constitution, Article I §14 Appendix **C-7**

EIGHTH AMENDMENT Appendix **C-3**

24. *K. M. Justin,* even if he had had jurisdiction, had required Petitioner to post a bond at the time of the issuance of the illegal warrant. When Petitioner appeared before him, as required (a day ahead of required time) increased the bond and had her incarcerated until a friend could bring more money. By having her placed in the same cell as the one in which she had been beaten by Oakland County Sheriff deputies on the occasion of her previously overturned incarceration (Sixth Amendment above), caused her severe trauma and fear.

25. *James P. Sheehy*, as instigator of the increase in Petitioner's bond (which *Justin* and *Sheehy* admitted), was responsible for the excessive bond and the cruel and unusual punishment which Petitioner was forced to endure. Michigan Constitution Article I §16 Appendix **C-7**

FOURTEENTH AMENDMENT Appendix **C-3**

26. Each and every act of *K.M.Justin, James P. Sheehy, David Breck and Robert Templin,* were acts designed and intended to violate Petitioner's rights under the Fourteenth Amendment, since Petitioner most assuredly was not given "Equal protection of the law". Also, Michigan Constitution of 1963, Article I § 2;Appendix **C-6**;*U.S. v Olin Corp., D.C.N.Y.1979 465 F. Supp. 1120* Appendix **C-15**

FEDERAL LAWS VIOLATIONS
MIRANDA LAW

27. *K. M. Justin,* even if he had had jurisdiction, violated the Miranda Law when he refused Petitioner the right to a court appointed attorney when she appeared before him, as an indigent person.

28. *James P. Sheehy* violated the Miranda law when he denied Petitioner's motion for a court appointed attorney because of her indigency.

29. *David Breck* violated the Miranda law when he denied Petitioner's motion for a court appointed attorney, both in his court and on her motion for such in 52/3 District Court, as appellate judge. Michigan Constitution Article I §20 Appendix **C-7**

28 USC § 144, MCR 2.003 Appendix **C-3**

30. *K. M. Justin* refused to recuse himself despite the fact that for at least three years he had been abetting his son in the illegal use of Petitioner's land, which constitutes a blatant conflict of interest.

31. *James P. Sheehy, David Breck and Robert Templin* all cases in which they were involved against Petitioner,denied Petitioner's motion for recusals and change of venue because of her inability to obtain a fair hearing in Oakland County courts 28 USC § 144 MCR 2.003 Michigan Compiled Laws 762.7, Appendix **C-10;** *In re Attorney General* 341 NW 2d 253, 129 Mich App 128 (1983); Appendix **C-15**

CONSPIRACY

42 USC § 1983; § 1985 (2) and (3); § 1986

32. This conspiracy against Petitioner began when she started investigating the Oakland County Sheriff's department activities after sheriff's deputies had stolen her car using falsified documents..She discovered a car theft ring being operated by sheriff's deputies. When she reported it to the Oakland County Sheriff, neither he nor the Internal Affairs Div. would do anything about those thefts. To quiet Petitioner, deputies beat her up in the holding cell at 52/3 District Court with threats of more serious damages if she did not quit. Petitioner sued sheriff and some deputies. That case is now at the United States Court of Appeals, Sixth Circuit and will probably be adjudged by Judge Boggs (currently acting as chief judge), whose decisions have shown a lack of regard for the United

States Constitution, where misdeeds of judges are involved

To protect the Sheriff, Oakland County offices have "Circled the Wagons". It starts with the Oakland County Executive whose ex-partner in a law firm (from which the executive had to resign when elected to office) has represented these four persons and the entire sheriff department The nephew of the County Executive is in the employ of the ex-partner and has actively represented Oakland County judges and sheriffs. Though state law permits such expenditure by the county in behalf of these individuals, it violates the Michigan Constitution of 1963, Article VI § 18 and Article VII §6. Appendix **C-8**

Involved, also, in the conspiracy, is the Oakland County Prosecutor, Oakland County Corporation Counsel (which pays the legal bills for these persons), Oakland County judges and even the Oakland County Register of Deeds (who refused to record a judgment for Petitioner, against a deputy sheriff).

33. *James P. Sheehy* first demonstrated his involvement in the conspiracy when he, somehow, gained control of all four cases involving this Petitioner, when two of them had been assigned to other judges.

34. *James P. Sheehy*, using the services of Oakland County Sheriff deputies and knowing that Petitioner was a subpoenaed witness in a case before him (where he did not want a witness to protect a defendant), advised Oakland County Sheriff that Petitioner was to be in his courtroom at 1:15 P.M. on a certain day in April of 1997. Deputy Stout waited, illegally, in the parking area of a

church on Clarkston Road, until Petitioner passed by him. Petitioner, following her usual route, turned right onto Joslyn Road and proceeded southerly until stopped by an Oakland County police car, driven by Deputy Ryan, blocking the road. Deputy Rathbun, driving north on Joslyn, made a U-turn and pulled in behind Petitioner. Then Deputy Stout, in a third police car pulled up alongside of Petitioner on her left, completely surrounding her when one considers the white posts on the right side of her car (protecting cars from the lake). They detained her for 24 minutes, which made her too late to witness in the case before *Sheehy*. To validate having stopped her, Rathbun gave her a ticket for "Improper Passing". See numbers **4**.b.), **5., 11.**d.),**16., 19., 21.** and **22.** above. Michigan Compiled Laws 600.1821 (4) Appendix **C-9** *Detroit Branch, N.A.A.C.P. v City of Dearborn* (1988), 434 NW 2d 444, 173 Mich App 602; Appendix **C-14**

In the matter of a **LACK OF PROBABLE CAUSE** for issuance of any warrant against Petitioner, the Deputy sheriff who wrote a police report against this Petitioner, based his "Report" on an alleged "incident" on Clarkston Road, in Orion Township, at 1:15 P.M. August 26, 1997. At that time, this Petitioner was in West Bloomfield, which is at least 22 miles away. Though Petitioner had three witnesses to prove where she was at that time, she was not permitted to have them testify under oath, before *Justin, Sheehy* or *Breck*.

35. The description of a driver of the "offending vehicle" given by Deputy Newkirk does not even vaguely

resemble this Petitioner. The only "source" of information he claimed to have was the license number GCL 924, which is a vehicle not owned by Petitioner. IF this were not a "frame-up", Deputy Newkirk could not have identified Petitioner from that license number. The intent was to use any method to deprive Petitioner of her driver's license because Deputy Newkirk referred Petitioner to the Secretary of State for a "reexamination", and providing an address where Petitioner had not lived in over eight years to prevent Petitioner's receipt of the notice of reevaluation with a resultant suspension of her license according to Michigan Law. (Because Post Office personnel knows Petitioner, they delivered notice to her at her address).

When the Secretary of State after mental, vision and physical examinations declared Petitioner to be "okay to receive a Michigan driver's license", the sheriff, aware that Petitioner had been approved, sent a scurrilous letter to Florida Driver's Bureau, claiming that Petitioner had serious mental and visual problems and fell asleep at the wheel and provided Florida with the same fallacious address, knowing Petitioner would not receive notice of any action.. Florida, unaware of Oakland County's intent, and unable to reach Petitioner, suspended her license for six months before she found out about their act, at which time, she immediately provided them with the same information she had given the Michigan Secretary of State and after examination of the doctors' reports about her, they advised her she was approved for a Florida license. They were so embarrassed and anxious to rescind that order,

they were most apologetic during the course of two phone calls which they initiated to this Petitioner..

Since Petitioner provided all these same proofs to *Justin, Sheehy* and *Breck* (as well as more proofs not applicable here), and all three refused to quash the warrant, when they were, all three, aware of the truth of her presentation, it is self-evident of their inclusion in the conspiracy. Since the police report was a false document and the subsequent testimony of the sheriff's deputy was full of perjurious statements, anything after that was the "fruit of the poisonous tree" and cause for dismissal, which these two judges and the phoney magistrate all knew. *People v Plyler*, 272 NW 2d 623, 86 Mich App 272; *People v Tucker*, 172 NW 2d 712, 19 Mich App 320 (1969) Appendix **C-16**

36. *Robert Templin* was not the first judge to be assigned the appeal of the case shown in **34.** above. Oakland County first attempted to assign it to Judge Kuhn, (until now, he has been an honest judge and was the Circuit Court judge who had given this Petitioner the reversal of the first illegal conviction whose decision was affirmed in the Michigan Court of Appeals) who refused to get involved because the sheriff was still under a contempt of court order for his refusal to return incarceration documents to this Petitioner; (which she still does not have). They then attempted to assign it to Judge O'Brien who promptly retired as a judge rather than get involved in the conspiracy. Then Judge Gilbert, who knows from prior cases, this Petitioner will not tolerate illegal acts,

refused it. Only then was *Templin*, illegally, assigned to handle the appeal. **5., 11.**d.), **19.**, and **22.** above *Maki v Laakko*, 88 F3d 361 (6th Cir.1996) N7.5 (1); *Strength v Hubert*, 854 F2d 241 (11th Cir 1988); *U.S. v Sneed*, 34 F3d 1570 (10th Cir 1994) Appendix **C-16**

LACK OF IMMUNITY

To the best research by this Petitioner, there has never been any law passed by the Congress of the United States granting any kind immunity to judges, except for what might be involved in 42 USCA §2000aa-6 (c) Appendix **C-6** but even there, there is the qualification "within the scope ... of their office". All case law to follow had been presented to the United States Court of Appeals, 6th Circuit. In fact, just theopposite of that Court's presentation and orders have been true:

When the founding fathers wrote the constitution, for the United States, they recognized the fallibility of human beings, even judges. *United States Constitution*, Article III, Section 1; Article VI, Paragraphs II and III. Appendix **C-1**

In *Marbury v Madison*, 5 US 137 (1803)(Cranch) Chief Justice Marshall stated firmly that courts are bound by the United States Constitution. Appendix **C-17**

Then in *Mc Culloch v State 17 US 316 (1819)*, he again stated that the United States Constitution is the supreme law of the land. Appendix **C-18**

Further, in *Mayor, Aldermen and Commonalty of City of New York v George Miln* 36 US 102 (1837) Justice

Barbour expressing the opinion of the court, indicated that jurisdiction is "surrendered or restrained" by the Constitution of the United States"

Those three cases establish the requirements of a court, i.e. the United States Constitution is the supreme law of the land, the courts are bound to honor it as such, acts inconsistent with the Constitution are void and that jurisdiction is surrendered when attempts are made to circumvent the Constitution. However, at that time, no particular penalties were attached to misdeeds by judges, other than existed in the United States Constitution, Article III. Appendix **C-1.**

Then, in 1866 and 1871, Congress declared that immunity for judges who violate the Constitution of the United States in their decisions are subject to sanctions. At first the sanctions were in the form of criminal sanctions.*Congress Globe, 39th Congress,* Appendix **C-18, C-19** They were then modified as civil sanctions *Congressional Globe, 42nd Congress* Appendix **C-19, C-20.**

Even here, in Michigan, the Michigan Supreme Court ruled that part of the act which granted total immunity to any or all governmental officials, (including judges) was unconstitutional. M.C.L. 691.1407 Appendix **C-10**, 14 *Maki v East Tawas,* 188 NW 2d 593, 385 Mich 151 (1971) and *Jackson v City of Detroit,* 192 NW 658, 35 Mich App 591 (1971)Appendix **C-20**

Though the courts have ruled that there is no immunity where there is no jurisdiction, the United States Court of Appeals for the 6th Circuit, under the current direction

of Judge Boggs (acting chief judge), ignored that fact in his findings against this Petitioner. The case law he used to attempt to validate his decision (with the assistance of two other judges), were issued by the Sixth Circuit (and some were case law involving his own past decisions)and included only one case law from one other circuit, inapplicable to Petitioner's case.

Because of the corruption prevalent in Oakland County government, where all divisions, including all but three Circuit Court judges [Kuhn, Tyner and Mc Donald] function under the premise of **"I CAN DO ANYTHING I CHOOSE TO YOU AND YOU CAN'T TOUCH ME. I'M IMMUNE FROM CLAIMS"**, this Petitioner has researched "immunity" from 1216 (when King John to retain his throne, agreed to the terms of the Magna Carta and in return, received the assurance of the controlling barons of "The King Can Do No Wrong", which, however, were it written in present day English, would be "The King MAY do no Wrong") to the present but has not included those areas where it would not be applicable and her results follow: *Magna Carta of 1216;* Appendix **C-17.**

As a result of confusion developed over the years, it became necessary to reestablish immunity, which was done *Floyd and Barker,* 77 Eng Rep 1305 (Star Chamber 1607). Appendix **C-17.**

Corruption resulted as a result of the decision of 1607 and resulted in the *English Declaration of Rights of 1689.* Appendix **C-17.**

When the founding fathers composed the Constitu-

tion of the United States, they still had fresh in their memories, the corruption of the king's court, as it had been applied to them. They injected into the Constitution what they thought would be sufficient protection against it. *United States Constitution, Article III and Article VI, Paragraphs 2 and 3.* Appendix **C-1.**

But judges became more interested in protecting bad decisions than justice, which precipitated the statements by then Chief Justice Marshall, which have never been abrogated. *Marbury v Madison,* 5 U.S. 137 (1803)(Cranch) and *Mc Culloch v State,* 17 U.S. 316 (1819), Appendix **C-17.**

Things were quiet for a while until the matter of shipping got involved then Justice Barbour found it necessary to state that any decision outside the United States Constitution was void and that where such occurred, jurisdiction was forfeited. Though certain judges have ignored his statements, they have never been abrogated. *Mayor, Aldermen and Commonalty of City of New York v George Miln,* 36 U.S. 102 (1837). Appendix **C-18;**

As a result of ongoing violations of the constitution by some judges, the United States Congress found it necessary to get involved. *Congress Globe, 39th Congress,* First Session, (1866) (President Johnson, Representative Lawrence, Senator Trumbull) Despite the veto of President Johnson, it became law, proving the indignation of Congress and was for criminal responsibility. Appendix **C-18 and C-19**;

As a result of outside pressures, the Congress deci-

ded to alter the criminal charges to be civil, through legislation. *Congressional Globe, 42nd Congress,* First Session, (1871) (Representative Arthur, Senator Shellabarger) Appendix **C-19 and C-20**.

Though there were intervening cases, the next case which had a defnite bearing on "immunity", it was *Pierson v Ray,* 386 U.S. 547 (1967) Appen*dix* **C-20**.

In 1973, two things occurred, having a bearing on "Immunity". First there was the dissertation by scholars which produced *Federal Courts and Federal System,* 336 2d ed, 1973 Appendix **C-13**;

The other was the case involving 1983 and 1985.. Though it did not specifically involve judges, it reiterated the supremacy of the Constitution. *Hampton v Chicago,* 484 F2d, 602, 607 (CA7 1973)(J Stevens).Appendix **C-21**

Then the Michigan Supreme Court ruled that immunity was not legislated but had been initiated by judicial officals. *Pittman v City ofTaylor,* 247 NW 2d 512, 398 Mich 41 (1976) Appendix **C-21**.

Since violation of the United States Constitution is not a function normally performed by a judge, the decision of the Supreme Court in 1978, denies immunity to the defendants in this plea for certiorari. *Stump v Sparkman,* 435 U.S.349 (1978)Appendix **C-13**;

There were several cases where "immunity" has been challenged, where officials other than judicial were involved but the one statement about "constitutional norm" is sufficient to prove that these malefactors are to be held accountable for their misdeeds.*George D. Owen v City of*

Independence, Missouri, et al, 445 U.S.622 63 L Ed 2d 673, 100 S Ct. 1398 (1980) Appendix **C-21**; *Hafer v Melo,* 502 U.S.21 (1991); *Blanche Road Corp. v Bensalem Twp.,* 57 F3d, 253 (3rd Circuit 1995). Appendix **C-22 and C-23.**

The Supreme Court of the United States has ruled that a claimant must prove damages. This brief has done that, to a major degree. *Anderson v Creighton,* 483 U.S. 635 (1987);Appendix **C-21 and C-22**

Then there is one case which shows clearly that 1983 is a legitimate vehicle for redress of grievances. See *Harlow v Fitzgerald,* 457 U.S.800 (1982); Appendix **C-22**

Thre ae two cases which absolutely sound the DEATH KNELL of immunity for these malefactors. The. fact that the 6th Circuit Appellate Court attempted to claim that these men had merely "erred", only serves to prove the lack of concern for the Constitution of the United States and the citizens of this country who pay their salaries. See *Forrester v White,* 484 U.S.219 (1988); and *Mireles v Waco,* 502 U.S.9 (1991) Appendix **C-22.**

Even Judge Gadola in the United States District Court, Eastern Division of Michigan ruled that according to Michigan law, immunity can not just be claimed, it must be proven. *Townsend v Hazdroth,* 875 F Supp 1293 (E.D.Mich 1995); See Appendix **C-23**

Though he is not really a magistrate, *Justin,* even if he were a magistrate could claim only "qualified immunity" but with a lack of probable cause, he has none.*Malley v Briggs,* 475 U.S. 335 (1986);Appendix **C-22.**

After due consideration of this brief by this Honor-

able Court, Petitioner feels certain that the injustice she has endured will be corrected.

WHEREFORE, THIS PETITIONER, IN PRO SE, PRAYS THIS HONORABLE COURT WILL GRANT HER PETITION FOR CERTIORARI.

Respectfully submitted,

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